

• • R E M A R K S • •

The Official Action of March 18, 2003 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment, independent claim 1 has been changed to recite that individual thermoplastic fibers of the second web are individualized between discrete areas where the first and second webs are joined together in step (d).

Support for this change to claim 1 can be found in the sentence bridging pages 5 and 6 of applicant's specification and also in the sentence bridging pages 15 and 16 of applicant's specification.

New dependent claim 6 has been added which further defines the manner in which the fibers of the second web are individualized. Support for new dependent claim 6 can also be found in the sentence bridging pages 5 and 6 of applicant's specification.

Entry of the claims is respectfully requested.

Claims 1-6 are pending in this application.

Claims 1 and 4 stand rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 4,525,407 to Ness.

Claims 1-5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ness in view of U.S. Patent No. 5,543,206 to Austin et al.

For the reasons set forth below it is submitted that all of the pending claims are allowable over the prior art of record and therefore, each of the outstanding rejections of the claims should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

The Examiner has relied upon Ness as teaching that it was known at the time of applicant's invention to "form a composite elastic which included the steps of providing an elastic material and intermittently bonding the elastic to a *nonwoven fabric* on both upper and lower surfaces of the elastic material.

Applicant's independent claim 1 requires: 1) a first web capable of elastic stretch and contraction; and 2) a second web capable of inelastic extension.

The "*nonwoven fabric*" that the Examiner refers to above is actually taught by Ness as being "less easily extensible than said elastic member" and as having a "less elastic recovery than said elastic member."

It is accordingly submitted that the "nonwoven fabric" substrate of Ness is expressly taught as being capable of elastic extension, howbeit to a lesser extend than the elastic member.

Applicant's second web is "capable of inelastic extension," i.e. does not have an elastic recovery as in the case of the substrate of Ness.

Accordingly, it is submitted that Ness does not anticipate applicant's claimed invention.

The Examiner has relied upon Austin et al. as teaching the use of "continuous filaments for the nonwoven layer 11 which was suitably formed via a spun bonding operation and then thermally bonded using conventional processing, see column 3, lines 5-25."

The thermal bonding in Austin et al which the Examiner refers to at column 3, lines 5-25 forms bonds "B." Bonds "B" are formed exclusively in nonelastic layer or web 11. The bonds "B" as disclosed transform the randomly collected filaments of the layer or web 11 into a "coherent web structure." (column 3, lines 17-21).

The nonelastic layer 11 is laminated to the extensible web 12 to form Austin et al.'s composite fabric 10.

As taught at column 5, lines 41-53, Austin et al. applies stretching forces to the composite fabric 10 to "extend an elongate the fabric in the machine direction (MD) and/or cross-machine direction (CD).

Austin et al. does teach that upon application of elongation forces fibers within the nonelastic layer 11 oriented in the direction of the elongation experience tension and the fabric and fibers undergo deformation.

Applicant's independent claim 1 requires that the individual thermoplastic fibers of the second web are individualized between discrete areas where the first and second webs are joined together.

The term "individualized" as used by applicant means that the fibers are separate elements that are "neither fused nor mechanically entangled tightly with each other" as disclosed in the sentence bridging pages 5 and 6. The fibers are otherwise fused to each other at the bonding areas between the first and second webs.

The bonds "B" in the nonelastic layer 11 of Austin et al. are not taught or depicted as being limited to only areas where the nonelastic layer 11 and the extensible web 12 are laminated together.

Note for example, Austin et al. teaches the use of a continuous adhesive coating to form the laminate.

As taught by Austin et al. at column 5, lines 62-67:

In accordance with the invention, intermittent bonds B distributed throughout nonelastic layer 11 are of high strength such that fibers are sufficiently tied down within the nonelastic layer 11 that fiber detachment is minimized during the elongation process.

This manner of minimizing fiber detachment is completely contrary to applicant's invention.

From the overall teachings of Austin et al. it can be concluded that Austin et al. does not teach that the fibers of nonelastic layer 11 are "individualized" and only fused together at areas where the nonelastic layer 11 and the extensible web 12 are attached together.

Moreover, it is clear that Austin et al. fails to teach or suggest that such a structural relationship would provide any particular benefit or advantage.

Accordingly, neither Ness nor Austin et al. alone or in combination teach or suggest applicant's claimed invention.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicant's claimed invention.

Moreover, it is submitted that the Examiner cannot properly rely upon the prior art as required under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicants' claimed invention. It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.

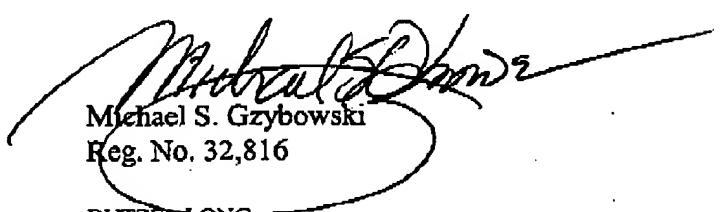
Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicant's patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



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Marked-Up Copy of the Claims
As Amended on June 18, 2002

1. (Twice Amended) A process for manufacturing a composite sheet capable of elastic stretch and contract in one direction, said process comprising:

(a) continuously feeding, in the one direction, a first web capable of elastic stretch and contraction and having a top surface and a bottom surface;

(b) extending said first web in the one direction within a range that permits elastic stretch and contraction of the first web;

(c) continuously feeding a second web capable of inelastic extension and composed of thermoplastic fibers along the one direction;

(d) superimposing said second web on at least one surface of the extended first web and joining said second web to the first web in an intermittent manner along the one direction to provide a composite web;

(e) extending the composite web in the one direction within a range that permits elastic stretch and contraction of the first web; and

(f) allowing the extended composite web to retract by an elastic contraction force of the first web to thereby obtain [said] a composite [sheet.] sheet in which individual thermoplastic fibers of the second web are individualized between discrete areas where the first and second webs are joined together in step (d).

New claim 6 has been added as follows:

--6. (New) The process of Claim 1, wherein the individualized fibers are neither fused nor mechanically entangled tightly with each other between the discrete areas where the first and second webs are joined together.--